

TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF PUBLIC AID
SUBCHAPTER a: GENERAL PROVISIONS

PART 102
RIGHTS AND RESPONSIBILITIES

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AUTHORITY: Implementing Article XI and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Art. XI and 12-13].

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Section 102.1 Incorporation by Reference

Any rules or regulations of an agency of the United States or of a nationally recognized organization or association that are incorporated by reference in this Part are incorporated as of the date specified, and do not include any later amendments or editions.

(Source: Added at 13 Ill. Reg. 3940, effective March 10, 1989)

Section 102.10 Rights of Clients

Assistance programs shall be administered in such a way as to afford certain rights to clients, and assure that a complete explanation is given of client rights and responsibilities.

(Source: Peremptory amendment at 3 Ill. Reg. 11, p. 39, effective March 1, 1979)

Section 102.20 Nondiscrimination

- a) No individual participating in any program or activity shall be discriminated against because of race, color, religious belief, political affiliation, sex, national origin or handicap.
- b) No direct payment for goods and services provided shall be made to any agency, institution, organization or individual vendor which initiates or continues prohibited discriminatory practices.
- c) Information regarding the Department's nondiscrimination policy shall be made available to all applicants at the time of application, all recipients upon request, all vendors receiving direct payment from the Department and all other interested parties as necessary.
- d) Any aggrieved person may file a written complaint of alleged discriminatory conditions or practices encountered in the Department's programs and activities.
- e) No individual or household applying for or participating in the Food Stamp Program administered by the Department shall be discriminated against because of age, race, color, sex, handicaps, religious creed, national origin, or political beliefs. The individual/household is not to be discriminated against in any aspect of program administration, including, but not limited to, the certification of households, the issuance of coupons, the conduct of fair or fraud hearings, or the conduct of any other program service.
 - 1) Individuals who believe that they have been subject to discrimination, as described in (e) above, may file a written complaint. When an individual expresses an interest in filing a discrimination complaint, the Department is to:
 - A) explain the United States Department of Agriculture (USDA) complaint procedure, (the procedure is outlined in 7CFR 272.7(c)), and
 - B) explain the Department (IDPA) complaint procedure, and
 - C) advise the individual of the right to file a complaint in either or both the USDA and/or IDPA complaint systems.
 - 2) Information regarding the Department's nondiscrimination policy is to be made available to all households at the time of application, to any household upon request, and to all other interested parties as necessary.

(Source: Peremptory amendment at 3 Ill. Reg. 11, p. 39, effective March 1, 1979)

Section 102.21 Voter Registration

- a) As mandated by the National Voter Registration Act of 1993, Public Law 103-31, Department staff are required to allow clients the opportunity to register to vote and to assist clients in completing voter registration forms.
- b) An application for assistance is a signed request for AFDC, Food Stamps or Medicaid benefits. The opportunity to register to vote shall be given at each application for assistance and at each recertification of Food Stamp benefits or other face-to-face redetermination.
- c) The opportunity to register to vote shall be made to all clients, age 18 and over, who have signed the application for AFDC, Food Stamps, Transitional Assistance, Child and Family Assistance or Medicaid benefits and who are present at the eligibility interview.
- d) The Department shall allow each member of the household over the age of 18 years, who must sign the application for public assistance and is present for the eligibility interview, the opportunity to register to vote. Each individual may decline.
- e) Department staff shall provide the same degree of assistance to each applicant in completing the voter registration form as provided by the Agency with regard to the completion of its own forms, unless the applicant refuses such assistance.
- f) Department staff shall not:
 - 1) seek to influence an applicant's political preference or party registration;
 - 2) display any political preference or party allegiance;
 - 3) make any statement or take any action to discourage an applicant from registering to vote; or
 - 4) make any statement or take any action to lead an applicant to believe that a decision to register or not to register will affect the availability of assistance.
- g) Department staff shall collect completed voter registration forms and forward the forms to the State election official no later than 10 days after the date of acceptance. Any voter registration form accepted by the Department within five days before the last day of registration for an election shall be transmitted no later than five days after the date of acceptance.
- h) The Department shall keep confidential records of the number of persons choosing to complete a voter registration form. The Department shall report those numbers to the State Board of Elections.

(Source: Amended at 21 Ill. Reg. 11955, effective August 13, 1997)

Section 102.25 Grievance Rights of Clients

- a) When clients feel that they have not been treated with courtesy, consideration or respect by a Department employee, they or their representative may file a written grievance. The client may file a written grievance in any Department office, even if the grievance is against a staff person not working in that office.
- b) The Department will investigate any written grievance which is filed within 60 days after the grieved occurrence. A client grievance filed more than 60 days after the grieved occurrence will not be investigated by the Department.
- c) Responsibility for Handling a Grievance
 - 1) When the client is in the local office and files a grievance against a local office staff person, the intermediary will handle the grievance.
 - 2) When the client is in the local office and files a grievance against the local office administrator, the local office administrator or designee will accept the grievance and notify the next higher level supervisor.
 - 3) When the client is in the local office and files a grievance against other agency personnel, the worksite manager will accept the grievance and notify the appropriate intermediary.
 - 4) When the client is in any other Department office and files a grievance against a local office staff person or other agency personnel, the worksite manager will accept the grievance and notify the appropriate intermediary within 48 hours.
- d) Intermediary
 - 1) An intermediary is a designated staff person who investigates and decides the merits of a client grievance. If necessary, the intermediary decides about disciplinary action.
 - 2) For local office personnel, the intermediary is:
 - A) The local office administrator;
 - B) A management person designated by the local office administrator; or
 - C) The next higher level supervisor if the grievance is filed against the local office administrator.
 - 3) For other agency personnel, the intermediary is:
 - A) The Bureau Chief of the employee against whom the grievance has been filed; or
 - B) A management person designated by the Bureau Chief.
- e) Investigation and Conference
 - 1) The intermediary registers all grievances in a log. The information on the log contains:
 - A) The name of the grievant;
 - B) The name of the worker or workers against whom the grievance is

- directed;
- C) The person who heard the grievance, if a hearing was held;
- D) The issue or issues involved; and
- E) The resolution of the grievance and any appropriate effective dates.
- 2) The intermediary will investigate the grievance. If necessary, the intermediary will determine the merits of the grievance and any disciplinary action that may be indicated.
- 3) When the intermediary determines that the investigation indicates a need for action, the intermediary will send a copy of the grievance to the employee against whom the grievance was filed. Within ten days after the receipt of the grievance, the intermediary will arrange a conference between:
 - A) The client who filed the grievance;
 - B) The representative of the client who filed the grievance, if any;
 - C) The employee against whom the grievance was filed;
 - D) A representative designated by the employee, if any; and
 - E) The intermediary.
- 4) For a bargaining unit employee, a representative of the bargaining unit may be the representative. The representative is allowed to:
 - A) Be present to make sure that a bargaining unit employee's rights under the contract are not violated and that the collective bargaining agreement is not violated; and
 - B) Be present to make sure a non-bargaining unit employee's rights under the Personnel Rules (80 Ill. Adm. Code 310) are not violated.
- 5) The meeting to hear a client's grievance is an informal conference controlled by the intermediary to obtain information from the client and the employee in order to determine the facts about the issue. The meeting should be conducted so as to protect both the client and the employee from abuse.
- 6) Within 15 calendar days after the conference, the intermediary will advise the client who filed the grievance in writing of any action being taken. The client will not be informed of disciplinary action taken against Department staff.
- f) The Department will take corrective action when just cause is shown in accordance with the Agreements between the State of Illinois and the American Federation of State, County and Municipal Employees or Personnel Rules of the Department of Central Management Services (80 Ill. Adm. Code 302: Subpart K), whichever is applicable.

(Source: Amended at 18 Ill. Reg. 1108, effective January 26, 1995)

Section 102.30 Confidentiality of Case Information

- a) For the protection of clients, any information about a client or case is confidential and shall be used only for purposes directly related to the administration of the assistance programs. The following shall be considered as included in the administration of the programs:
 - 1) The establishment of a client's initial or continuing eligibility for public assistance;
 - 2) The establishment or the extent of an individual's need for financial assistance, medical assistance or other services; and
 - 3) The establishment of procedures assuring the health and safety of the client.
- b) Use of information for commercial, personal, or political purposes is specifically prohibited.
- c) Local office staff shall inform all agencies and governmental departments to whom information is furnished that this material is confidential and must be so considered by the agency or governmental department.
- d) Aid to Families with Dependent Children (AFDC):
 - 1) The Department shall release or provide information for use concerning individuals applying for or receiving financial assistance or services only to persons or agency representatives who are subject to standards of confidentiality which are comparable to those maintained by the Department.
 - 2) Whenever possible, the Department shall inform a family or individual of a request for information from an outside source, and shall obtain permission to meet the request. In an emergency situation when prior consent for the release cannot be obtained, the Department shall notify the family or individual immediately after the release.
 - 3) In the event a subpoena is served on the Department for it to produce a case record or for a Department representative to testify concerning an applicant or recipient, the Department shall call the court's attention through proper channels to the statutory provisions and its policies, rules and regulations against disclosure of information.
 - 4) This section shall apply to all requests for information from an outside source, including a governmental authority, the courts or a law enforcement official.
 - 5) The current address of clients who are fugitive felons shall be disclosed to State and local law enforcement officers without client consent. A fugitive felon is a person who has been convicted of committing a felony such as murder or arson, and who is evading arrest for the charges upon which the felony conviction was based. The current address of clients shall be disclosed only to properly identified (i.e. law enforcement badge and/or identification card) State and local law enforcement officers who:
 - A) Provide the Department with the name and social security number of the client; and

- B) Satisfy the requirements of 45 CFR 205.50(a)(v)(A)-(C)(1984). The client shall not be advised of the disclosure of such information.
- e) Food Stamps
 - 1) For the protection of food stamp households use or disclosure of individual or case information obtained from the household is restricted to the following:
 - A) persons directly connected with the administration or enforcement of the provisions of the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) or regulations;
 - B) persons directly connected with other Federal or federally aided, or State means-tested assistance programs;
 - C) Illinois State agencies involved in investigations of reports of child abuse or neglect, including the Department of Children and Family Services;
 - D) employees of the Comptroller General's Office of the United States for audit examination;
 - E) local, State or Federal law enforcement officials, upon their written request for the purpose of investigating an alleged violation of the Food Stamp Act of 1977 or regulations. The written request shall identify the official making the request and the authority to do so; the violation being investigated; and the identity of the person on whom the information is requested.
 - 2) If a written request to review materials in the case record is submitted by a responsible household member, the household's currently authorized representative or a person acting in the household's behalf, the material and information in the case record shall be made available for inspection during normal business hours. However, the local office may withhold confidential information, such as the names of individuals who have disclosed information about the household without the household's knowledge, or the nature or status of pending criminal prosecutions.

(Source: Amended at 9 Ill. Reg. 14704, effective September 13, 1985)

Section 102.35 Case Records

- a) The case record is a business record and shall constitute an official record of the Department concerning clients.
- b) A case record shall be established for each applicant and maintained for each recipient.
- c) The case record shall indicate the basis for approval or denial of the application.
- d) A case record shall be established and maintained for each applicant and participant in the Food Stamp program. A separate food stamp case record shall be maintained for each non-assistance household.
 - 1) For assistance households, the food stamp record shall be maintained in an isolated section of the regular income maintenance case record.
 - 2) The case record shall be documented to support eligibility, ineligibility and benefit level determination. When verification is needed to resolve questionable information, the case record shall indicate the reason the information was considered questionable and what documentation was used to resolve the questionable information. The case record shall also indicate the reason why an alternate source of verification was needed.

(Source: Peremptory amendment at 3 Ill. Reg. 11, p. 39 effective March 1, 1979)

Section 102.40 Freedom of Choice

- a) Aid to the Aged, Blind or Disabled (AABD), AFDC and Medical Assistance-No Grant (MANG)
 - 1) Individuals shall have the right to receive assistance, if eligible, under the assistance program of their choice. Individuals may choose at any time not to receive assistance for which they are eligible.
 - A) An individual who is eligible for AFDC and Supplemental Security Income (SSI) shall not receive both, but may choose between the programs.
 - B) An individual who is eligible for AFDC and AABD shall not receive both, but may choose between the programs.
 - 2) An individual may accept or reject any or all social services offered to him by the Department. Exceptions shall only be made when:
 - A) It appears that a child may be in need of protective services;
 - B) Employment, education or training services are a condition of eligibility; or
 - C) The client is not capable of exercising such choice because of serious mental or physical impairment, and there is no relative or other responsible person available or willing to do so for the client.
 - 3) An individual receiving assistance shall be entitled to a choice of physicians, hospitals, or other providers of goods and services. Payment shall be made only to providers who are approved for participation in the Department's programs.
 - 4) An individual shall have choice of living arrangements and the Department may not impose upon a client a change in living arrangements.
- b) General Assistance (GA) and Aid to the Medically Indigent (AMI)
 - 1) An individual shall have the right to accept or reject services offered. Acceptance of services is not to be a condition of eligibility except in cases for which employment, education or training service referrals are mandatory.
 - 2) An individual receiving assistance shall be entitled to a choice of physicians, hospitals, or other providers of goods and services.
 - 3) An individual shall have a choice of living arrangements, and the local office has neither the right nor the responsibility to impose upon a client a change in living arrangements.
 - 4) An individual may choose at any time not to receive assistance for which eligibility has been determined.
- c) Food Stamps

Any person or group of persons has the right to apply for food stamps at any given time.

Section 102.50 Reporting Change of Circumstances

- a) It is the responsibility of the client to report any change in circumstances, household composition or receipt of income or assets which might affect the client's assistance. This information shall be reported to the local office within five working days of the change or prior to the expenditure of funds received, whichever occurs first. When there is a change in the household composition, this information shall be reported to the local office immediately.
- b) AABD - Group Care
When an individual other than the recipient maintains the recipient's funds (income and/or assets), it is the responsibility of that individual to report any changes in circumstances to the local office. Any changes that may affect the recipient's continued eligibility for medical or financial assistance, including receipt of lump sum payments, shall be reported to the local office within five working days of the change.
- c) Food Stamps
It shall be the responsibility of the Food Stamp household to report any changes in circumstances which might affect the household's participation in the Food Stamp Program and to report any changes in gross income or deductions of \$25.00 or more per month. The above changes must be reported to the local office within 10 calendar days of the date the change becomes known to the household.

(Source: Amended at 3 Ill. Reg. 43, p. 196, effective October 15, 1979)

Section 102.60 Referral Requirements

A client shall have the right to receive information about programs and services of the Department or the local GA office. The client also shall have the right to be referred to other agencies for appropriate programs and services. The client has the responsibility to accept a referral to a source of potential financial, medical or service assistance.

Section 102.63 Reporting Child Abuse/Neglect

- a) As mandated by the Abused and Neglected Child Report Act, Department staff are required to immediately report to the Department of Children and Family Services suspected abuse or neglect. A Report is to be filed when there is reason to believe a child may be an abused or neglected child or when information is received that a child may be an abused or neglected child. Abuse or neglect as defined by State law (Section 3 of the "Abused and Neglected Child Reporting Act", Ill. Rev. Stat. 1983, Ch. 23, Par. 2053) and the Rules and Regulations of the Department of Children and Family Services (89 Ill. Adm. Code 302: Subpart B), are reportable.
- b) This reporting requirement applies to all Department staff. This includes income maintenance and any other staff who suspect that a child with whom they have had contact in a working capacity, is an abused or neglected child.

(Source: Added at 9 Ill. Reg. 3730, effective March 13, 1985)

Section 102.66 Suitability of Home

- a) The Department is required to consider the suitability of the home of a child in a family receiving financial assistance in relation to the standards of care and health fixed by the laws of the state (Section 4 of the "Abused and Neglected Child Reporting Act", Ill. Rev. Stat. 1983, Ch. 23, Par. 2054)) and by rules and regulations of the Illinois Department of Children and Family Services (89 Ill. Adm. Code 302: Subpart B). If Department staff determine that the home of a child in a family receiving financial assistance does not appear to be suitable, such person shall file a report with the Department of Children and Family Services as required by the Abused and Neglected Child Reporting Act.
- b) This reporting requirement applies to all Department staff. This includes income maintenance and any other staff who determine that a child with whom they have had contact in a working capacity resides in a home that is unsuitable.

(Source: Added at 9 Ill. Reg. 327, effective December 31, 1984)

Section 102.70 Notice to Client

- a) Every applicant for assistance shall be sent or given a written notice of disposition of the application.
- b) Every recipient for assistance shall be sent or given a written notice whenever assistance is reduced or discontinued.
- c) Notices denying, reducing, or discontinuing assistance shall contain the following information:
 - 1) A clear statement of the action being taken.
 - 2) A clear statement of the reason for the action.
 - 3) A reference to the statute, rule, or policy provision under the authority of which the action is taken. From March 1997 through March 1998, references to provisions of the Department's policy manuals using the numbering system in use in 1996 shall be deemed to be references to the corresponding provisions of the new numbering system introduced in 1997.
 - 4) A complete statement of the client's right to appeal (see subsection (d) below and Sections 102.80 through 102.82).
- d) Timely Notice
 - 1) All notices concerning local office reduction or discontinuance of assistance shall be "timely" except notices to cases in monthly reporting when the adverse action is due to information received on the monthly report or due to failure to submit a complete monthly report. A "timely" notice shall be mailed or given at least ten calendar days prior to the date the reduction or discontinuance will occur, and shall inform the client that if the client files an appeal by the date the reduction or discontinuance will occur, his or her assistance will be continued at its previous level, pending the results of the appeal unless the client specifically requests that the assistance benefits not be continued. The notice shall be dated with the date it is mailed or given. (Day one of the ten day period is the day following the date on the notice. Day ten may be no later than the date the reduction or discontinuance will occur.)
 - 2) Notices sent concerning reduction or discontinuance of assistance by agency action initiated centrally and notices to cases in monthly reporting when the action is due to information received on the monthly report or due to failure to submit a complete monthly report may be either "timely" or "adequate", as defined by federal regulation. When timely notice is not required and an adequate notice is sent less than ten days before the date of change, the client may receive continued benefits if the appeal is filed within ten days after the date of notice. (See 89 Ill. Adm. Code 112.302.)
- e) Aid to Families With Dependent Children

- 1) Every recipient who makes a written request for a grant increase or a special authorization shall be sent or given written notice of the disposition of the request within 45 days after the date of the request.
 - 2) Every recipient who makes a request for Special Assistance (89 Ill. Adm. Code 116.500), Emergency Assistance (89 Ill. Adm. Code 116.510) or Hardship Assistance (89 Ill. Adm. Code 116.520) shall be sent or given a written notice of the disposition of the request within 45 days after the date of the request.
- f) Approval of General Assistance as a result of cancellation of AFDC or AABD or reduction of AFDC (Applicable Only in City of Chicago)
- 1) A notice of intended cancellation or reduction of benefits is sent to an AFDC or AABD recipient, in the City of Chicago, whose assistance is discontinued or a person deleted from the assistance unit (AFDC only) for one of the following reasons:
 - A) AABD: no longer blind, disabled.
 - B) AFDC:
 - i) no longer an eligible child in the home,
 - ii) no longer incapacitated,
 - iii) absent parent returned home,
 - iv) no longer an unemployed parent,
 - v) stepparent's liability sufficient to meet need,
 - vi) stepparent failed to verify income, or
 - vii) parent participating in a strike.
 - 2) If a recipient from one of the programs listed in subsection (f)(1) applies for General Assistance (GA) within 30 days of the notice of cancellation or reduction of benefits and if that recipient is determined to be eligible for GA such benefits shall be authorized with no gap in assistance (see also 89 Ill. Adm. Code 110.30).
- g) Food Stamp households shall be notified
- 1) If there is no change in benefits following submission of a change report form.
 - 2) If food stamp benefits are being reduced or discontinued, the following additional information shall be included on the notice:
 - A) the telephone number of the local Public Aid office;
 - B) a statement indicating the household's liability for benefits received while waiting for a fair hearing decision, if the decision is adverse to the household; and
 - C) a statement indicating the general availability of outside individuals or organizations providing free legal representation and the telephone number of those individuals or organizations.
 - 3) A notice of approval shall be sent to eligible households by the 30th day following the date of application. If the household is found not eligible to participate, the

- notice of denial shall be sent by the 30th day following the date of application.
- 4) If the local office cannot act on an application by the 30th day because the case file is incomplete due to a household's delay, a notice of denial shall be sent on the 30th day. However, the household has an additional 30 days to complete the application. If the delay is caused by the local office, a notice of pending status shall be sent to the household by the 30th day.

(Source: Amended at 21 Ill. Reg. 11955, effective August 13, 1997)

Section 102.80 Right to Appeal

- a) Any individual who applies for or receives financial or medical assistance, social services or food stamps benefits shall have the right to appeal any of the following:
- 1) Refusal to accept an application or reapplication;
 - 2) Failure to act on an application within the mandated time period;
 - 3) A decision to deny an application;
 - 4) A decision to reduce, suspend, terminate or in any way change the amount of assistance/food stamps or manner in which it is provided;
 - 5) Failure to make a decision or take appropriate action on any request which the client makes;
 - 6) A decision affecting the basis of issuance of food stamps with which the client disagrees;
 - 7) A decision to deny the payment for a medical service or item that requires prior approval;
 - 8) A decision granting prior approval request for a lesser or different medical service or item than was originally requested;
 - 9) An issue of Department policy, if the client is aggrieved by its application; or
 - 10) The determination of the amount of a premium that may be charged to a client under any medical assistance program. The Department's determination of the amount of a premium shall remain in force during the appeal process.
- b) The appeal may be filed by the client or the client's authorized representative. For food stamp clients, the request for a hearing may be made orally or in writing, and the appeal process is initiated effective with the date of the request.

(Source: Amended at 25 Ill. Reg. 16111, effective December 1, 2001)

Section 102.81 Continuation of Assistance Pending Appeal

- a) If an appeal is initiated by the date a reduction or discontinuance will occur or within ten (10) calendar days of the date of the adequate notice, assistance shall be continued at the level in effect prior to the proposed action, pending the results of the fair hearing process, unless the individual specifically requests that his/her assistance benefits not be continued. If the date the reduction or discontinuance will occur or the 10th calendar day is a Saturday, Sunday or a holiday, the client has until the end of the next work day to file his/her appeal.
- b) If a food stamp household files an appeal as the result of normal expiration of the certification period, or as a result of action taken on the initial or subsequent application, benefits shall not be continued at the previous level.
- c) If a food stamp household timely appeals a suspension from program participation for failure to file a Monthly Report by the date the suspended benefits would have been issued or within ten (10) days from the date of notice of adverse action, whichever is later, (See 89 Ill. Adm. Code 121.91(i)) and the household admits that it did not submit the Monthly Report, the household is not entitled to continuation of benefits.
- d) If an individual appeals the Department's decision to initiate a protective payment plan by the date initiation of the plan will occur, the protective payment plan shall not be initiated pending the results of the fair hearing process.

(Source: Amended at 15 Ill. Reg. 7202, effective April 30, 1991)

Section 102.82 Time Limit for Filing an Appeal

- a) The right of appeal (except for food stamp cases) must be exercised within 60 calendar days of the date of the Department's action to notify the client. All written notifications to clients are to bear the same date as the date of mailing or delivery. Day one of the 60 day time period shall be the day following:
 - 1) The date on a written notification of a decision on an application, reduction, suspension, termination or discontinuance assistance and/or food stamp benefits, absent definitive evidence to the contrary that the notification was mailed (or delivery attempted) on a different date;
 - 2) The date of the Department's notification of denial of a request or other action which aggrieves the client when that denial or action is other than an application decision or a decision to reduce, suspend or terminate assistance.
- b) The 60 day time limitation does not apply when the Department fails to send a required written notification, fails to take action on a specific request, or denies a request without informing the client.
- c) Food stamp clients may request a hearing on any action or loss of benefits which occurred in the prior 90 days.

(Source: Amended at 6 Ill. Reg. 894, effective January 7, 1982)

Section 102.83 Examining Department Records

- a) At any time during the regular office hours of the Department, the Department shall permit a client (as defined at 89 Ill. Adm. Code 101.20) and/or a client's authorized representative to examine the client's case record(s) in the presence of a Department employee and to obtain copies of such case record material(s) upon payment of a charge for reproduction.
- b) At any time within 35 days following release of the decision the appellant and/or authorized representative may review, at the local office, the documents presented by the Department at the hearing, the findings of fact, and the decision.

(Source: Amended at 8 Ill. Reg. 18910, effective September 26, 1984)

Section 102.84 Child Care

- a) The Department shall authorize payment of child care expenses, if needed, to allow an AFDC or AABD (not MANG) client (active, pending, denied, or cancelled case status) to attend an appeal hearing. (See 89 Ill. Adm. Code 112.308 for child care rates.)
- b) The appellant must request the payment no later than 30 days after the hearing.

(Source: Amended at 7 Ill. Reg. 8350, effective July 1, 1983)

Section 102.90 Voluntary Repayment of Assistance

- a) A recipient or former recipient of assistance may voluntarily repay all or part of the assistance provided.
- b) A responsible relative or other person may, in behalf of a recipient or former recipient, repay all or part of the assistance provided.

Section 102.100 Excess Assistance (Recodified)

(Source: Recodified to 89 Ill. Adm. Code 165.10 at 10 Ill. Reg. 21094)

Section 102.110 Recoupment of Overpayments (Recodified)

(Source: Recodified to 89 Ill. Adm. Code 165.70 at 10 Ill. Reg. 21094)

Section 102.120 Correction of Underpayments

When it is determined that an AFDC assistance unit has not received all the assistance to which it is entitled, the Department shall provide retroactive corrective payments when the assistance unit is currently active.

(Source: Amended at 5 Ill. Reg. 10775, effective October 1, 1981)

Section 102.200 Recovery of Assistance

- a) By means of claims against the estates of deceased recipients and the estates of their deceased spouses and liens against recipients' real property interests, the Department has a statutory right to recover assistance provided to or in behalf of recipients according to the terms prescribed in this Section.
- b) The Department shall effect its recoveries by one of the following actions:
 - 1) Acceptance of an amount, as settlement, equal to the estimated amount which would be collected if the estate were administered or the lien foreclosed;
 - 2) Administration of the estate; or
 - 3) Foreclosure of the lien.
- c) When the Department has both an estate claim and a real property lien, collection of the claim and lien shall be by one action.

(Source: Amended at 21 Ill. Reg. 619, effective January 1, 1997)

Section 102.210 Estate Claims

- a) Definitions in this Section are as follows:
- 1) "Estate" - all real and personal property within an individual's estate as provided in Illinois probate law. For a decedent who received benefits under a long term care insurance policy in connection with which assets were disregarded, the term "estate" includes all real and personal property in which the individual had legal title or interest at the time of death (to the extent of such interest), including assets conveyed to a survivor, heir or assignee of the deceased person through joint tenancy, tenancy in common, survivorship, life estate, living trust or other arrangement.
 - 2) "Beneficiary" - any person nominated in a will to receive an interest in property other than in a fiduciary capacity.
 - 3) "Heir" - any person entitled under the statutes to an interest in property of a decedent.
- b) The Department's claim against the estate of a deceased recipient or against the estate of the recipient's deceased spouse, regardless of the order of death, shall encompass:
- 1) All income maintenance assistance paid out at any time; and
 - 2) All medical assistance paid out:
 - A) at any time for a permanently institutionalized recipient whose real property is subject to the Department's lien; or
 - B) except the costs of Community Care Program (CCP) services, prior to October 1, 1993, for a recipient while 65 years of age or older; or
 - C) on or after October 1, 1993, for a recipient while 55 years of age or older; or
 - D) for Medicare cost sharing expenses of a Qualified Medicare Beneficiary (QMB).
- c) The claim shall apply to assistance provided to or in behalf of a recipient on or after the following dates:
- | Assistance Program | Effective Date |
|--|--------------------|
| 1) AABD (Aged)
(AABD(A)) | 1) 1963 |
| 2) AABD (Blind)
and (Disabled)
(AABD(B) and (D)) | 2) November 1963 |
| 3) MANG (Aged),
(Blind), and (Disabled)
(MANG(A),(B), and (D)) | 3) January 1, 1966 |
- d) The Department shall not enforce a claim for medical assistance against any property, real or personal, of a deceased recipient while one or more of the following relatives survives: spouse of decedent, child under 21, or child over 21 who is blind or permanently and totally disabled.
- e) The Department shall not enforce a claim for income maintenance assistance against

homestead property of a deceased recipient while the homestead is occupied by one or more of the surviving relatives previously specified.

- f) To avoid undue hardship, the Department will waive its right to recover from a decedent's estate if pursuing recovery would cause an heir or beneficiary of the estate to become or remain eligible for a public benefit program, such as SSI, TANF or Food Stamps. The Department may limit the scope of its waiver to that portion of the estate that the heir or beneficiary would receive and pursue recovery against the balance of the estate, if any. The Department will not waive recovery despite undue hardship if payment of the claims of other estate creditors that are equal or inferior in priority to the Department's claim will exhaust the estate and defeat the purpose of the waiver. The Department will provide written notice to heirs and beneficiaries known to the Department of the opportunity, time frame and method to request a waiver of estate recovery based on undue hardship.
- g) The Department may defer or waive enforcement of its claim for income maintenance assistance if it determines that:
 - 1) The deceased recipient is survived by a dependent spouse and minor child or children;
or
 - 2) Rehabilitative training for employment or other means of self-support for the surviving spouse or children is feasible, and deferment or waiver will facilitate achievement of self-support status and prevent or reduce the likelihood of return to dependency on public assistance of the spouse or children.

(Source: Amended at 24 Ill. Reg. 10294, effective July 1, 2000)

Section 102.220 Real Property Liens

The Department's lien against a recipient's real property shall encompass:

- a) all medical assistance paid out at any time for a permanently institutionalized recipient, and
- b) all income maintenance assistance paid to or on behalf of a recipient on or after the following dates:

<i>Assistance Program</i>	<i>Effective Date</i>
AABD(A)	January, 1962
AABD(B) and (D)	November, 1963

(Source: Amended at 18 Ill. Reg. 273, effective December 28, 1993)

Section 102.230 Filing and Renewal of Liens

- a) The Department shall file a lien against:
 - 1) The homestead property owned by:
 - A) a recipient of AABD; or
 - B) a permanently institutionalized recipient of MANG(A), (B) or (D), except as provided in Section 102.235;
 - 2) Any other legal or equitable real property interests, regardless of value, which the recipient owns.
- b) The lien shall be renewed every five years by the Department until it is satisfied.

(Source: Amended at 25 Ill. Reg. 16111, effective December 1, 2001)

Section 102.235 Liens on Property of Institutionalized Recipients

- a) Definitions in this Section are as follows:
 - 1) "Institutionalized individual" - individual of any age who is an inpatient in a nursing facility or other medical institution and who must, as a condition of receiving services in the institution, apply his or her income to the cost of care.
 - 2) "Individual's home" - dwelling with adjoining and related real estate which the individual owns and occupies, or when temporarily absent, dwelling in which the individual maintains an intent to return.
 - 3) "Equity interest in the home" - current market value of the home less all encumbrances.
 - 4) "Residing in the home for at least one or two years on a continuous basis" - occupancy of an individual's home by a sibling or child of the individual as a primary place of residence. During the one or two year period, the individual's home address was used by the sibling or child as his or her mailing address, or his or her address used for driver's license or voter registration purposes, and the address remained unchanged.
 - 5) "Discharge from the medical institution and return home" - the attending physician has signed an order for discharge from the medical institution, following which the individual has returned to reside in his or her own home.
 - 6) "Lawfully residing" - use of the property of an individual in a medical institution as the home of a spouse or a minor, blind or disabled child, or a sibling with an ownership interest in the home. Such property must be the spouse's child's or sibling's mailing address, or his or her address used for driver's license or voter registration purposes.
- b) Except as provided in subsection (c) of this Section, the Department shall file a lien on all real property, including the home of a recipient of MANG(A), (B) or (D) who it determines to be permanently institutionalized, that is, cannot reasonably be expected to be discharged and return home from a medical institution.
- c) The Department will not file a lien on the home if it is occupied by the permanently institutionalized recipient's spouse, minor or disabled or blind child, or sibling who has an equity interest in the home and has legally resided in it continuously for at least one year immediately before the date the recipient was admitted to a medical institution.
- d) There shall be a rebuttable presumption of permanent institutionalization when a recipient has resided for at least 120 calendar days in one or more medical institutions.
- e) The Department shall provide the recipient with at least 10 calendar days advance notice of its intention to file a lien on the recipient's real property, based on its determination that the recipient is permanently institutionalized, and of the recipient's right to request and obtain a fair hearing on this determination.

(Source: Amended at 21 Ill. Reg. 619, effective January 1, 1997)

Section 102.240 Foreclosure of Liens

- a) The Department may enforce a lien by foreclosure:
 - 1) At any time when there is a transfer of a recipient's real property subject to the lien;
 - 2) In case of fraud; or
 - 3) At the time of the recipient's death.
- b) The Department shall defer foreclosure of a lien on homestead property, except in case of fraud, if:
 - 1) the property is occupied by the recipient or the recipient's surviving spouse, child under 21, or child over 21 who is blind or permanently and totally disabled, or
 - 2) in the case of a permanently institutionalized recipient,
 - A) a sibling of the recipient has resided continuously in the property since at least one year immediately before the date the recipient was admitted to the institution, or
 - B) a child of the recipient who has resided continuously in the property since at least two years immediately before the date the recipient was admitted to the institution establishes that he or she provided care for at least two years before admission that enabled the recipient to live at home rather than in an institution.

(Source: Amended at 18 Ill. Reg. 273, effective December 28, 1993)

Section 102.250 Release of Liens

- a) The Department shall release a lien when:
 - 1) The Department receives full repayment of the assistance granted subject to the lien;
 - 2) A bond is filed, with a surety or sureties acceptable to the Department, which guarantees payment of the amount of the lien; or
 - 3) The lien was filed in error.
 - 4) A MANG(A), (B) or (D) recipient has been medically discharged from an institution and returns to his or her home on which the Department holds a lien.
- b) The Department may also release a lien when:
 - 1) It receives the value of the property to which the lien attaches, but its claim for any balance due on the lien is reserved against any of the recipient's subsequently discovered assets; or
 - 2) The recipient has a dependent spouse and minor children; or
 - 3) Rehabilitative training for employment or other means of self-support is feasible where release of the lien would facilitate achievement of self-support status and prevent or reduce the likelihood of a return to dependency on public assistance.

(Source: Amended at 18 Ill. Reg. 273, effective December 28, 1993)

Section 102.260 Personal Injury Claims

- a) Clients who suffer a personal injury and have a potential for recovery of damages as a result of the type or severity of the injury, must report such injuries to the Department and take action to collect any damages which may be due.
- b) The Department shall collect payment from personal injury settlements paid in behalf of clients. The Department shall not collect payment from claims covered by the Workers' Compensation Act (Ill. Rev. Stat. 1985, Ch., 48, par. 138.1 et seq.), the Workers' Occupational Diseases Act (Ill. Rev. Stat. 1985, Ch. 48, par. 172.36 et seq.) or an Act requiring compensation for causing death by wrongful act, neglect or default (Ill. Rev. Stat. 1985, Ch. 70, pars. 1-22).
- c) The Department shall have a charge equal to the total cost of medical assistance provided to an injured individual from the date of the injury to the date of recovery of damages.
- d) If an employable individual receives assistance for himself and/or dependents, the Department's charge shall also include the total cost of cash and medical assistance issued as a result of the injury which was provided for the individual and his dependents from the date of injury to the date of recovery of damages. The Department's charge is for assistance provided for the injured recipient and his dependents even if all persons are not included in a single assistance unit.
- e) Payment received by a client as damages for a personal injury shall be considered nonexempt unearned income after payment of the following expenses:
 - 1) necessary costs of litigation or settlement;
 - 2) the Department's charge;
 - 3) medical costs resulting from the injury and paid by the client; and
 - 4) expenses to repair or replace personal property which was damaged as a result of the injury.

(Source: Amended at 10 Ill. Reg. 19088, effective October 24, 1986)

Section 102.270 Convictions of Fraud - Eligibility

a) Multiple Convictions

Any person who has been found guilty of a criminal violation of Article VIIIA of the Illinois Public Aid Code [305 ILCS 5/Art. VIIIA] or of any law of the United States or another state which is substantially similar to Sections 8A-2 through 8A-5 of Article VIIIA, two or more times, shall be ineligible for assistance under the GA program (in the City of Chicago) or the State AABD program. Children for whom such a person is a caretaker relative shall remain eligible for assistance under this Code.

b) Single Convictions of \$10,000 or more

Any person who has been found guilty of a criminal violation of Article VIIIA of the Illinois Public Aid Code [305 ILCS 5/Art. VIIIA], who has not previously been convicted of a criminal violation of Article VIIIA and has amassed \$10,000 or more in such criminal violation, shall be ineligible for assistance under the GA program (in the City of Chicago) or the State AABD program for a period of two years following conviction or until the total amount of money, including the value of food stamps, is repaid, whichever first occurs. Children for whom such a person is a caretaker relative shall remain eligible for assistance.

(Source: Amended at 21 Ill. Reg. 7438, effective June 1, 1997)

Section 102.280 Single Conviction of Fraud - Administrative Review Board

Except as provided in Section 102.270, any person who has been found guilty of a criminal violation of Article VIIIA of the Illinois Public Aid Code [305 ILCS 5/Art. VIIIA] or of any law of the United States or of any state which is substantially similar to Sections 8A-2 through 8A-5 for violations related to public assistance programs and who has not previously been convicted for a criminal violation of Article VIIIA or of any law of the United States or of any state which is substantially similar to Sections 8A-2 through 8A-5 for violations related to public assistance programs shall be subject to the provisions of this Section upon filing a subsequent application for public assistance under AFDC, AABD, Refugee Assistance, or the GA program (in the City of Chicago).

- a) The application will be reviewed by an Administrative Review Board (ARB) prior to approval or disapproval. The ARB shall consist of the Local Office Administrator of the local office where the application is made and a representative of the Zone Office, appointed by the Zone Office Administrator.
- b) The review by the ARB shall be for the purpose of determining the person's eligibility for assistance and to determine whether any additional administrative safeguards are required to prevent any future violations of Article VIIIA.
- c) The review shall be informal. The applicant will be notified, in writing, of the review at least five days in advance. The review will be held in the county where the applicant resides. The applicant may attend the review, and may bring other persons to the review to speak on his or her behalf, including an attorney, relatives or friends. The review shall be open to the public, unless the applicant and the ARB determine otherwise. The review shall be held within such a time as not to delay the decision on the application beyond the time allowed under State and Federal law and regulations. (See 89 Ill. Adm. Code 110.20).
- d) If the ARB determines the applicant is not eligible for public assistance, based on applicable eligibility factors of the program or programs for which the applicant is applying, the applicant will be notified in the same manner as other applicants. The applicant shall be entitled to appeal any decision of denial. (The grounds for appeal and appeal procedure to be followed is found at 89 Ill. Adm. Code 102 and 104.)
- e) If the ARB determines the applicant is eligible for public assistance, the ARB shall also determine what administrative safeguards, if any, are required to ensure that the person does not commit further violations of Article VIIIA. Such safeguards shall be based on the individual factors of each case and may include, but are not limited to, more frequent home visits, more frequent reports regarding financial or other factors, appointment of a substitute payee, or any other actions which are permitted by State and Federal law and regulations.
- f) The applicant will be notified, in writing, of the decision of the ARB and an explanation of the administrative safeguards required in his or her case. The applicant shall be entitled to appeal any decision of the ARB.
- g) The ARB shall review the necessity for any administrative safeguard every six months. At

the review, the necessity to continue or reverse the administrative safeguards will be determined.

(Source: Amended at 21 Ill. Reg. 7438, effective June 1, 1997)